

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

FILED  
U.S. DISTRICT COURT  
DISTRICT OF NEBRASKA

10 MAY 27 PM 3:40

OFFICE OF THE CLERK

FERMIN CORTEZ, <i>et al.</i> ,	)	8:08CV90
	)	
Plaintiffs,	)	
	)	
and	)	
	)	
DAVID CHUOL, <i>et al.</i> ,	)	8:08CV99
	)	
Plaintiffs,	)	
	)	[PROPOSED] ORDER ON FINAL
vs.	)	PRETRIAL CONFERENCE
	)	
NEBRASKA BEEF, LTD. and	)	
NEBRASKA BEEF, INC.,	)	
	)	
Defendants.	)	

A Final Pretrial Conference was held on May 27, 2010. Appearing for the parties as  
counsel were:

For the Plaintiffs:

Shanon J. Carson  
Russell D. Henkin  
BERGER & MONTAGUE, P.C.  
1622 Locust Street  
Philadelphia, Pennsylvania 19103  
Tel: (215) 875-4656

Todd M. Schneider  
Carolyn H. Cottrell  
SCHNEIDER WALLACE COTTRELL BRAYTON KONECKY LLP  
180 Montgomery Street, Suite 2000  
San Francisco, California 94104  
Tel: (415) 421-7100

Philip A. Downey  
THE DOWNEY LAW FIRM  
P.O. Box 736  
Unionville, Pennsylvania 19375  
Tel: (610) 324-2848

*NY  
SJR*

Christopher P. Welsh (State Bar No. 22279)  
WELSH & WELSH, P.C., L.L.O.  
2027 Dodge Street, Suite 400  
Omaha, Nebraska 68102  
Tel: (402) 384-8160

For the Defendants:

William M. Lamson, Jr.  
Brian J. Brislen  
10306 Regency Parkway Drive  
Omaha, NE 68114

**A. EXHIBITS.**

See attached Exhibit Lists submitted by Plaintiffs and Defendants.

**B. UNCONTROVERTED FACTS.**

1. Defendant Nebraska Beef, Ltd. employed the Plaintiffs and Class members as hourly labor and production personnel at various times between March 4, 2004 and the present.
2. Defendant Nebraska Beef, Ltd. is an enterprise engaged in commerce or in the production of goods for commerce.

**C. CONTROVERTED AND UNRESOLVED ISSUES.**

**GENERAL**

1. Whether Defendants violated the Fair Labor Standards Act (FLSA) by failing to pay Plaintiffs and the Class for all hours of work performed, including required overtime wages;
2. Whether Defendants violated the FLSA by failing to pay minimum wages;
3. Whether Defendants violated Nebraska's Wage and Hour Act by failing to pay minimum wages;
4. Whether Defendants violated Nebraska's Wage Payment and Collection Act by failing to pay class members for all work performed;

5. Whether Defendants breached their contracts with Plaintiffs and the Class under Nebraska common law by failing to pay Plaintiffs and the Class compensation in accordance with the parties' contractual agreement;

6. Whether Defendants were unjustly enriched under Nebraska common law by recouping the benefit of uncompensated labor performed by Plaintiffs and the Class;

7. Whether and to what extent Plaintiffs and the Class are entitled to relief, in the form of monetary compensation, statutory penalties, or otherwise;

8. Whether and to what extent Class Counsel is entitled to recover attorneys' fees and costs for their representation of Plaintiffs and the Class;

9. Whether Nebraska Beef, Inc. is a joint employer of Plaintiffs and the Class members.

#### **ELEMENTS OF CAUSES OF ACTION**

Plaintiffs have alleged the following six causes of action: (1) failure to pay overtime wages in violation of the FLSA, 29 U.S.C. § 207; (2) failure to pay minimum wage in violation of FLSA, 29 U.S.C. § 206; (3) violation of the Nebraska Wage and Hour Act, Neb. Rev. Stat. § 48-1201-1209 (failure to pay minimum wage); (4) violation of the Nebraska Wage Payment and Collection Act, Neb. Rev. Stat. Neb. Rev. State. § 48-1228-1232 (failure to pay for all hours worked); (5) breach of contract; and (6) unjust enrichment.

##### **1. Failure to Pay Overtime Wages in Violation of FLSA, 29 U.S.C. § 207**

The relevant issues include:

a. Whether Plaintiffs and Class members were employed by Defendants during the relevant time period (March 4, 2004-present). **Defendants stipulate that this is met with respect to Nebraska Beef, Ltd.;**

b. Whether Plaintiffs and Class members were employed by an enterprise engaged in commerce or in the production of goods for commerce. **Defendants stipulate that this is met with respect to Nebraska Beef, Ltd.;**

c. Whether Plaintiffs and Class members were paid for all hours worked, including all hours worked over 40 hours in a workweek;

d. Whether Nebraska Beef failed to pay Plaintiffs and Class members time and a half for all hours they worked over forty per week;

e. Whether the donning, doffing, washing, sanitizing, sharpening, walking, waiting and related activities at issue constitute "work" under the FLSA;

f. Whether the donning, doffing, washing, sanitizing, sharpening, walking, waiting and related activities which Plaintiffs allege took place pre-shift, post-shift and during lunch are "integral and indispensable" to the production work performed by hourly employees;

g. Whether the Plaintiffs and Class members were provided with a bona fide, uninterrupted meal period;

h. Whether all of the allegedly unpaid work activities, even if compensable, take a *de minimis* amount of time to complete;

i. Whether the Plaintiffs and Class members suffered damages as a result of any violation of the FLSA, and the amount of damages suffered;

j. Whether Defendants willfully violated the FLSA;

k. Whether Defendants are entitled to assert a good faith defense;

l. Whether Plaintiffs and the Class members are entitled to liquidated damages; and

m. Whether Plaintiffs and the Class members are entitled to attorneys' fees and costs.

2. **Failure to Pay Minimum Wage in Violation of the FLSA 29 U.S.C. § 206<sup>1</sup>**

The relevant issues include:

- a. Whether Plaintiffs and Class members were employed by Defendants during the relevant time period (March 4, 2004-present). **Defendants stipulate that this is met with respect to Nebraska Beef, Ltd.;**
- b. Whether Plaintiffs and Class members were employed by an enterprise engaged in commerce or in the production of goods for commerce. **Defendants stipulate that this is met with respect to Nebraska Beef, Ltd.;**
- c. Whether Defendants have failed to pay the Plaintiffs and Class members the federally mandated minimum wage;
- d. Whether the Plaintiffs and Class members suffered damages as a result of such failure;
- e. Whether the Plaintiffs and Class members suffered damages as a result of any violation of the FLSA, and the amount of damages suffered;
- f. Whether Defendants willfully violated the FLSA;
- g. Whether Defendants are entitled to assert a good faith defense;
- h. Whether Plaintiffs and the Class members are entitled to liquidated damages; and
- i. Whether Plaintiffs and the Class members are entitled to attorneys' fees and costs.

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<sup>1</sup> Plaintiffs must show that an employee's total straight-time compensation for a workweek divided by the number of hours worked is less than the minimum wage:

- \$5.85 per hour on July 25, 2007;
- \$6.55 per hour on July 25, 2008;
- \$7.25 per hour on July 25, 2009.

W  
SJC

**3. Violation of the Nebraska Wage and Hour Act, Neb. Rev. Stat. §§ 48-1201-1209  
(Failure to Pay Minimum Wage)<sup>2</sup>**

The relevant issues include:

- a. Whether Defendants have failed to pay Plaintiffs and Class members the Nebraska state-law mandated minimum wage;
- b. Whether the Plaintiffs and Class members have suffered damages as a result of such failure;
- c. The amount of damages suffered by each Plaintiff.

**4. Nebraska Wage Payment and Collection Act, Neb. Rev. Stat. §§ 48-1228-1232  
(Failure to Pay for All Hours Worked)**

The Nebraska Wage Payment and Collection Act permits an employee to sue his or her employer if the employer fails to pay the employee's wages as they become due. To establish a claim under the NWPCA, Plaintiffs and the Class members must show:

- a. the disputed payment was compensation for labor or services;
- b. it was previously agreed to; and
- c. all conditions stipulated have been met.

**[Defendants contend that the following properly states the contested issues with respect to this claim:**

- (a) Whether Nebraska Beef, Ltd. has failed to pay the Plaintiffs all wages due within thirty days of the regular paydays designated by Nebraska Beef, Ltd. or agreed upon by Nebraska Beef, Ltd. and the Plaintiffs.

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<sup>2</sup> Plaintiffs must show that Defendants failed to pay:

- \$5.15 per hour prior to July 23, 2007
- \$5.85 per hour from July 24, 2007 to July 23, 2008
- \$6.75 per hour from July 24, 2008 to July 23, 2009; and
- \$7.25 per hour after July 24, 2009.

- (b) Whether any such failure was willful.
- (c) Whether there was a reasonable dispute as to the fact that wages were owed or as to the amount of the wages.
- (d) Whether any such failure was a proximate cause of damage to the Plaintiffs.
- (e) The amount of damages suffered by each Plaintiff.]

**5. Breach of Contract**

The relevant issues include:

- a. Whether Defendants entered into contracts with the Plaintiffs;
- b. The terms and conditions of such contracts;
- c. Whether Defendants breached such contracts;
- d. Whether this breach of contract was a proximate cause of damage to the Plaintiffs and the Class;
- e. The nature and extent of that damage.

**6. Unjust Enrichment**

If Court does not find that Plaintiffs had a contract with Defendants, Plaintiffs claim that Defendants received and benefitted from the uncompensated labors of Plaintiffs and the Class and that for Defendants to retain this benefit without compensation would be inequitable and would rise to the level of unjust enrichment. The required elements are:

- a. Defendants received a benefit;
- b. Defendants retained possession of the benefit;
- c. In justice and fairness, Defendants ought to compensate Plaintiffs and the Class members because it would be unjust for Defendants to retain the benefit.

*WJ  
SPL*

## PENDING MOTIONS

1. Plaintiffs' Motions in Limine, filed on May 14, 2010. Defendants' Opposition is due on May 28, 2010. Plaintiffs' Reply is due on June 4, 2010.

2. Defendants' Motions in Limine, filed on May 14, 2010. Plaintiffs' Opposition is due on May 28, 2010. Defendants' Reply is due on June 4, 2010.

3. Defendants' Motion to Communicate with Class Members Regarding Notice of Pendency of Class Action, filed on May 14, 2010. Plaintiffs' Opposition is due on May 28, 2010. Defendants' Reply is due on June 4, 2010.

4. Plaintiffs intend to file a Motion for the Application of *Anderson v. Mt. Clemens Pottery* Burden-Shifting at Trial. *trial brief*.

5. ~~Plaintiffs reserve the right to file appropriate motions concerning jury instructions in the event that the parties cannot reach agreement on this issue.~~

6. Defendants intend to make a motion to decertify the class at the close of Plaintiffs' evidence at trial.

## D. WITNESSES.<sup>3</sup>

All witnesses, including rebuttal witnesses, whom the PLAINTIFFS expect to call to testify, except those who may be called for impeachment purposes as defined in NELR 16.2(c) only, are:

### WILL CALL WITNESSES:

1. Rafael Alvarez  
Nebraska Beef
2. David Scott Baird  
May be contacted through Plaintiffs' counsel

*City and State for witnesses  
to be filed on or before June 11*

<sup>3</sup> The parties have agreed that it is not necessary in this case to list the city of residence for each witness, and that they will not object to the presentation of witnesses at trial on that basis.

*WJ  
SJR*

3. Milton Barron  
May be contacted through Plaintiffs' counsel
4. Agapito Becerra  
Nebraska Beef
5. Kenny Bell  
Nebraska Beef
6. Floyd H. Brown  
May be contacted through Plaintiffs' counsel
7. Norman Carr, Sr.  
May be contacted through Plaintiffs' counsel
8. Darrell Carter  
May be contacted through Plaintiffs' counsel
9. Mario Castaneda  
Nebraska Beef
10. David Chuol  
May be contacted through Plaintiffs' counsel
11. Lisa Clary  
Nebraska Beef
12. Ernesto Contreras  
May be contacted through Plaintiffs' counsel
13. Jorge Contreras  
May be contacted through Plaintiffs' counsel
14. Jorge Juan Contreras Lopez  
May be contacted through Plaintiffs' counsel
15. Ronald Cooper  
May be contacted through Plaintiffs' counsel
16. Joel Corona  
Nebraska Beef
17. Fermin Cortez  
May be contacted through Plaintiffs' counsel

18. John Deseck  
Nebraska Beef
19. Adrian Diaz  
Nebraska Beef
20. Michael Edwards  
May be contacted through Plaintiffs' counsel
21. Elias Escalante Munoz  
May be contacted through Plaintiffs' counsel
22. Harry Flaitz  
Address currently unknown
23. Willie Frazier  
May be contacted through Plaintiffs' counsel
24. Gladys Fromi  
Nebraska Beef
25. Fred Fromine  
Nebraska Beef
26. Michael Funkhouser  
May be contacted through Plaintiffs' counsel
27. Gregory Garcia  
May be contacted through Plaintiffs' counsel
28. Kcee Graham  
May be contacted through Plaintiffs' counsel
29. Jerome Green  
May be contacted through Plaintiffs' counsel
30. George L. Gulley  
May be contacted through Plaintiffs' counsel
31. Gary Harris  
Nebraska Beef
32. Tarquin Gene Henry  
May be contacted through Plaintiffs' counsel

33. Kathy Hoigt  
Nebraska Beef
34. Edward Howard  
May be contacted through Plaintiffs' counsel
35. Bill Hughes  
Nebraska Beef
36. Nathaniel Hughes  
May be contacted through Plaintiffs' counsel
37. Perry M. James  
May be contacted through Plaintiffs' counsel
38. James Jandrain  
2610 Dodge Street, #200, Omaha, NE 68131  
402-345-6063
39. Patrick Michael Jenum  
May be contacted through Plaintiffs' counsel
40. David Jimenez  
May be contacted through Plaintiffs' counsel
41. Lorenzo Jimenez  
May be contacted through Plaintiffs' counsel
42. Terry Johnson  
May be contacted through Plaintiffs' counsel
43. Tony Joy  
Nebraska Beef
44. Hipolito Lara  
May be contacted through Plaintiffs' counsel
45. Juan Magana Heredia  
May be contacted through Plaintiffs' counsel
46. Julian Martinez  
Nebraska Beef
47. Jennifer McElroy  
Nebraska Beef

48. Jim McKnight  
Nebraska Beef
49. Bryan McNeil  
May be contacted through Plaintiffs' counsel
50. Ken Mericle  
May be contacted through Plaintiffs' counsel
51. Dean Miller  
Address currently unknown
52. Frankceal Miller  
May be contacted through Plaintiffs' counsel
53. Michael Minor, Sr.  
May be contacted through Plaintiffs' counsel
54. Marcello Montenegro  
Nebraska Beef
55. Strozier Moore  
May be contacted through Plaintiffs' counsel
56. Javier Moreno Lopez  
May be contacted through Plaintiffs' counsel
57. Kim Nguyen  
Nebraska Beef
58. Ngam Nitbouapha  
Address currently unknown
59. Timothy E. Novotny  
May be contacted through Plaintiffs' counsel
60. Lonnie Pace  
Nebraska Beef
61. Jaime Perez  
May be contacted through Plaintiffs' counsel
62. Santos Perez  
May be contacted through Plaintiffs' counsel

63. Santiago Perez Cruz  
May be contacted through Plaintiffs' counsel
64. Alfred Pratt  
May be contacted through Plaintiffs' counsel
65. Elana Richie  
~~110 Dodge Street, #210~~, Omaha, NE 68131  
402-345-6063
66. Rich Ropski  
Nebraska Beef
67. Mr. Schreck  
Nebraska Beef
68. Eugene Seaboy  
Address currently unknown
69. Gladys Sibrian  
Nebraska Beef
70. Ines Soltero  
May be contacted through Plaintiffs' counsel
71. Steven R. Steele  
May be contacted through Plaintiffs' counsel
72. Dwight Steward, Ph.D.  
May be contacted through Plaintiffs' counsel
73. Christopher Stubbs  
May be contacted through Plaintiffs' counsel
74. Robert Taylor  
May be contacted through Plaintiffs' counsel
75. Michael Thatcher  
Nebraska Beef
76. Ladell A. Thornton  
May be contacted through Plaintiffs' counsel
77. James Timmerman  
Nebraska Beef

78. Antonio Torres Ramos  
May be contacted through Plaintiffs' counsel
79. Raul Vargas  
Nebraska Beef
80. Isaac E. Valencia  
May be contacted through Plaintiffs' counsel
81. Jesus Vallin  
May be contacted through Plaintiffs' counsel
82. Mario Villareal  
Nebraska Beef
83. Eric Williams  
May be contacted through Plaintiffs' counsel
84. Tramayne Williams  
May be contacted through Plaintiffs' counsel
85. All opt-in Plaintiffs  
May be contacted through Plaintiffs' counsel
86. All of Plaintiffs' experts, retained and non-retained  
May be contacted through Plaintiffs' counsel
87. All of Defendants' experts, retained and non-retained  
Nebraska Beef

MAY CALL WITNESSES:

1. Juan Aguilar  
Nebraska Beef
2. Enrique Alazando  
Nebraska Beef
3. Elizabeth Alvarado  
Address currently unknown
4. Debbie Batten  
Address currently unknown
5. Brent Bennett  
Address currently unknown

6. Vern Bennett  
Address currently unknown
7. Stephanie Botelo  
May be contacted through Plaintiffs' counsel
8. Mike Carrol  
Nebraska Beef
9. Ron Corollo  
Nebraska Beef
10. Patrick Craven  
Address currently unknown
11. Chris Daniels  
Address currently unknown
12. Jenny Do  
Nebraska Beef
13. Khanh Do  
Address currently unknown
14. Khiet Hguyen Duy  
Address currently unknown
15. Emiliano Esquivel  
Address currently unknown
16. Bill Farrell  
Nebraska Beef
17. Marshall Fritz  
Nebraska Beef
18. Gerardo Ceballos Garcia  
Address currently unknown
19. Carol Garza  
Address currently unknown
20. Diane Hernandez  
Address currently unknown

21. Luis Hernandez  
Address currently unknown
22. Mitch Hinrichs  
Nebraska Beef
23. Enrique Jaime  
Nebraska Beef
24. Sylvia Juarez  
Address currently unknown
25. Florin Loghin  
May be contacted through Plaintiffs' counsel
26. Sanh Ly  
Address currently unknown
27. Cleniz Martin  
Address currently unknown
28. Bill Meyers  
Nebraska Beef
29. Gavin Niemi  
May be contacted through Plaintiffs' counsel
30. Maria Moreno  
May be contacted through Plaintiffs' counsel
31. Bao Nguyen  
Nebraska Beef
32. Sam Pinto  
Nebraska Beef
33. James Reeves  
Nebraska Beef
34. Jacobo Reyes  
Address currently unknown
35. Julio Rivas  
Address currently unknown

36. Jaime Rodriguez  
Nebraska Beef
37. Jose Rodriguez  
Address currently unknown
38. Rodrigo Rodriguez  
Address currently unknown
39. Marian Roskens  
Address currently unknown
40. Jim Schultz  
Nebraska Beef
41. Doug Smith  
Address currently unknown
42. Plutarco Solano  
Address currently unknown
43. Ted Stafford  
Address currently unknown
44. Will Thorpe  
Nebraska Beef
45. Romero Valadez  
Nebraska Beef
46. Wilder Vargas  
Nebraska Beef
47. Carlos Vasquez  
Nebraska Beef
48. Martin Vasquez  
Nebraska Beef
49. Tim Vu  
Nebraska Beef
50. Dave Wellman  
Nebraska Beef
51. Yasushi Yokezeki  
Nebraska Beef

52. Any of Defendants' witnesses

All witnesses, including rebuttal witnesses, whom the **DEFENDANTS** expect to call to testify, except those who may be called for impeachment purposes as defined in NELR 16.2(c) only, are:

**WILL CALL WITNESSES:**

1. Bill Hughes, President and CEO  
Nebraska Beef
2. Mario Villareal, Plant Manager  
Nebraska Beef
3. Tony Joy, Fabrication Superintendent  
Nebraska Beef
4. Jennifer McElroy, Personnel  
Nebraska Beef
5. Lisa Cleary, Slaughter Superintendent  
Nebraska Beef
6. Jeffrey Fernandez, PhD, PE, CPE  
JF Associates, Inc.
7. Marcelo Montenegro, Supervisor - Fabrication  
Nebraska Beef
8. Adrian Diaz, Supervisor - Fabrication  
Nebraska Beef
9. Rodrigo Rodriguez, Supervisor - Pack Off  
Nebraska Beef
10. Lonnie Pace, Supervisor - Viscera Areas  
Nebraska Beef

**MAY CALL WITNESSES:**

1. James Timmerman, Vice President  
Nebraska Beef

2. Fred Fromi, CFO  
Nebraska Beef
3. Julian Martinez, Orientation  
Nebraska Beef
4. Caryn Donly, Senior Project Administrator  
Rust Consulting, Inc.
5. James G. Jandrain  
Limited Partner of Nebraska Beef, Inc.
6. Fermin Cortez, Plaintiff
7. Gregory Garcia, Plaintiff
8. Isaac E. Valencia, Plaintiff
9. Jorgo Contreras, Plaintiff
10. Javier Moreno Lopez, Plaintiff
11. Santos Perez, Plaintiff
12. Lorenzo Jimenez, Plaintiff
13. Terry Johnson, Plaintiff
14. David Choul, Plaintiff
15. Bao Nguyen, Supervisor – Fabrication  
Nebraska Beef
16. Raul Vargas, Supervisor - Fabrication  
Nebraska Beef
17. Mike Carroll, Supervisor - Fabrication  
Nebraska Beef
18. Enrique Elizondo, Supervisor - Trim Sort  
Nebraska Beef
19. Marshall Fritz, Supervisor - Bagging  
Nebraska Beef

20. Bill Myers, Supervisor - QA  
Nebraska Beef
21. Martin Vazquez, Supervisor - Ship: Day/Night/Pallets  
Nebraska Beef
22. Wilder Vargas, Supervisor - Shag  
Nebraska Beef
23. Rich Ropski, Supervisor - Fabrication Maintenance  
Nebraska Beef
24. Sam Pinto, Supervisor - Fabrication Sanitation  
Nebraska Beef
25. Pat Craven, Supervisor - Yards  
Nebraska Beef
26. Joel Corona, Supervisor - Knocking Areas  
Nebraska Beef
27. Jaime Rodriguez, Supervisor - Head Areas  
Nebraska Beef
28. Jim Doughtery, Supervisor Cooler Areas  
Nebraska Beef
29. Ramiro Valadez, Supervisor Offal Areas  
Nebraska Beef
30. Mitch Hinrichs, Supervisor - Hide  
Nebraska Beef
31. Sonia Valadez, Supervisor - QA  
Nebraska Beef
32. Will Thorp, Supervisor - Kill Maintenance  
Nebraska Beef
33. Each person identified on the master list of employees and  
former employees provided to counsel for plaintiffs and  
Rust Consulting on or about December 5, 2008
34. Mike Thatcher, Senior Vice President  
Nebraska Beef

35. Dr. David B. Marx  
University of Nebraska – Lincoln
36. Defendant may also call certain yet unidentified former and current Opt Out Employees of Nebraska Beef following the receipt of list of Opt Outs from Rust Consulting. *Any names to be provided on or before June 30, 2010.*  
*Witness designation deadline by August 2, 2010. Objections by August 6.*
37. Defendant may also call any witness identified by plaintiffs in their witness list(s).
38. Any witness needed to establish foundation of exhibits.
39. Any witness needed for impeachment or rebuttal.

**It is understood that, except upon a showing of good cause, no witness whose name and address does not appear herein shall be permitted to testify over objection for any purpose except impeachment. A witness whose only testimony is intended to establish foundation for an exhibit for which foundation has not been waived shall not be permitted to testify for any other purpose, over objection, unless such witness has been disclosed pursuant to Federal Rule of Civil Procedure 26(a)(3). A witness appearing on any party's witness list may be called by any other party.**

**E. QUALIFICATIONS OF EXPERT WITNESSES.**

*CV's delivered separately  
to trial judge.*

Experts to be called by the **PLAINTIFFS** and their qualifications are:

**WILL CALL EXPERTS:**

1. Kenneth S. Mericle, Ph.D. See attached curriculum vitae regarding Sr. Mericle's qualifications.
2. Dwight Steward, Ph.D. See attached curriculum vitae regarding Dr. Steward's qualifications.

Experts to be called by the **DEFENDANTS** and their qualifications are:

**WILL CALL EXPERTS:**

1. Jeffrey Fernandez, Ph.D., PE, CPE. Dr. Fernandez' qualifications are set forth in his attached curriculum vitae.

**MAY CALL EXPERTS:**

1. David Marx, Ph.D.

Dr. Marx' qualifications are set forth in his attached curriculum vitae.

**F. VOIR DIRE.**

In accordance with Fed. R. Civ. P. 47(a) and NECivR 47.2(a), the parties request that the Court require potential jurors to complete a juror questionnaire agreed upon by all parties and submitted to the Court not later than five (5) business days before the first day of trial. The parties further request that their counsel be permitted to examine potential jurors directly during the voir dire process. Defendants request that voir dire be limited to ninety minutes per side.

**G. NUMBER OF JURORS.**

Plaintiffs request a jury of nine members. Defendants request a jury of twelve members.

**H. VERDICT.**

Plaintiffs agree to a less-than-unanimous verdict based on a majority vote. Defendants will not agree to a less than unanimous verdict.

**I. BRIEFS, INSTRUCTIONS AND PROPOSED FILINGS.**

Counsel have reviewed NECivR 39.2, 51.1(a), and 52.1, and suggest the following schedule for filing trial briefs, proposed jury instructions and proposed findings of fact, as applicable: five working days prior to trial. *Exhibit Notes and deposition materials to be delivered to trial judge one month days before trial.*

**J. LENGTH OF TRIAL.**

The parties do not agree on the estimated length of trial. Plaintiffs believe that the trial will take up to ten (10) trial days (the amount already scheduled by the Court). Defendants believe that the trial will take fifteen (15) trial days.

**K. TRIAL DATE.**

*September 7, 2010.*

Trial is set by special setting to begin on June 21, 2010.

FERMIN CORTEZ, *et al.* and DAVID CHUOL, *et al.*,  
Plaintiffs

*Carolyn Cottrell*  
/s/ Carolyn Cottrell

Todd M. Schneider (admitted *pro hac vice*)

Carolyn H. Cottrell (admitted *pro hac vice*)

SCHNEIDER WALLACE COTTRELL BRAYTON  
KONECKY LLP

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[tschneider@schneiderwallace.com](mailto:tschneider@schneiderwallace.com)

[ccottrell@schneiderwallace.com](mailto:ccottrell@schneiderwallace.com)

*Shanon J. Carson*  
/s/ Shanon J. Carson

Shanon J. Carson (admitted *pro hac vice*)

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Philadelphia, Pennsylvania 19103

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Fax: (215) 875-4604

[scarson@bm.net](mailto:scarson@bm.net)

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Unionville, Pennsylvania 19375

Tel: (610) 324-2848

Fax: (610) 347-1073

[downeyjustice@gmail.com](mailto:downeyjustice@gmail.com)

Christopher P. Welsh (State Bar No. 22279)

WELSH & WELSH, P.C., L.L.O.

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Omaha, Nebraska 68102

Tel: (402) 384-8160

Fax: (402) 384-8211

[cwelsh@welsh-law.com](mailto:cwelsh@welsh-law.com)

**ATTORNEYS FOR PLAINTIFFS**

*NY  
SJP*

NEBRASKA BEEF, INC., and NEBRASKA BEEF, LTD.,  
Defendants,

By:

  
/s/ William M. Lamson, Jr.

William M. Lamson, Jr., #12374

William R. Settles, #19879

Brian J. Brislen, #22226

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10306 Regency Parkway Drive

Omaha, NE 68114-3743

Telephone: (402) 397-7300

Telefax: (402) 397-7824

wml@ldmlaw.com

wrs@ldmlaw.com

bjb@ldmlaw.com

*ATTORNEYS FOR DEFENDANTS*

IT IS SO ORDERED this 27<sup>th</sup> day of May, 2010.

  
HON. THOMAS D. THALKEN  
U.S. DISTRICT COURT MAGISTRATE JUDGE

478217

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEBRASKA**

FERMIN CORTEZ, *et al.*, ) 8:08CV90  
Plaintiffs, )  
and )  
DAVID CHUOL, *et al.*, ) 8:08CV99  
Plaintiffs, )  
vs. ) PLAINTIFFS' LIST OF EXHIBITS  
NEBRASKA BEEF, LTD. and )  
NEBRASKA BEEF, INC., ) Trial Date: June 21, 2010  
Defendants. )

EXHIBIT NO.			DESCRIPTION	WILL CALL	MAY CALL	OFF	OBJ	RCVD	NOT RCVD	DATE
PLF	DF	3 PTY								
1			Nebraska Beef Payroll Codes D000001-D000002	X						
2			Nebraska Beef Sanitation and Personal Hygiene Policy D000003-D000005	X			R			
3			Nebraska Beef Orientation Program D000006-D000011	X			F			
4			Nebraska Beef Orientation Program D000012-D000017	X			F			
5			Nebraska Beef Spreadsheet listing Job Descriptions, Departments, PPE and Donn/Sanitize Wait time (Diminimus spreadsheet) D000018-D000026 D000195-D000203	X						

O = Rule of  
Completeness

6		Nebraska Beef General Production Lines Description D000027		X		R, F		
7		Nebraska Beef Timesheet System General Description D000028		X		R, F		
8		Nebraska Beef Leave and Pay Policies D000029-D000033	X			R, F		
9		Nebraska Beef Policy regarding Drug and Alcohol Abuse D000034		X		R, F		
10		Nebraska Beef Agreement Permitting Visitor Access D000035-D000037		X		R, F		
11		Nebraska Beef Sample Gang Time Sheets from December 8, 2008 D000038-D000051	X			R, O		
12		Nebraska Beef Safety Orientation D000052-D000077	X			R, F		
13		Nebraska Beef Policy regarding Family and Medical Leave Act of 1993 D000078-D000081		X		R, F		
14		Nebraska Beef Job Descriptions and Payroll Codes D000082-D000083	X			R, F		
15		Nebraska Beef Lunch Periods D000084	X			R, F		
16		Nebraska Beef Floor Plans (First and Second Floors) D000085-D000088	X			F		
17		Full-sized/Blown-up Blueprints of Nebraska Beef Floor Plans	X			F		

18			Nebraska Beef Employee List D000089-D000194		X		R			
19			Nebraska Beef Food Safety Training Logs – General Course (January 2005 – December 2005) D000204-D000441		X		R			
20			Nebraska Beef Food Safety Training Logs – General Course (January 2006 – December 2006) D000442-D000671		X		R			
21			Nebraska Beef Food Safety Training Logs – General Course (January 2007 – December 2007) D000672-D000904		X		R			
22			Nebraska Beef Food Safety Training Logs – General Course (January 2008 – September 2008) D000905-D001080		X		R			
23			Gang Time Sheets – Fabrication and Slaughter (February 27, 2005 – April 16, 2005)		X					
24			Gang Time Sheets – Fabrication and Slaughter (April 24, 2005 – April 30, 2005)		X					
25			Gang Time Sheets – Fabrication and Slaughter (July 3, 2005 – December 31, 2005)		X					
26			Gang Time Sheets – Fabrication and Slaughter (January 1, 2006 – December 31, 2006)		X					
27			Gang Time Sheets – Fabrication and Slaughter (January 1, 2007 – December 31, 2007)		X					

28		Gang Time Sheets – Fabrication and Slaughter (January 1, 2008 – December 20, 2008)		X						
29		Gang Time Sheets – Fabrication and Slaughter (March 1, 2004 – February 27, 2005)		X						
30		Gang Time Sheets – Fabrication and Slaughter (December 21, 2008 – Present)		X						
31		Payroll Worksheets – Fabrication (December 26, 2004 – July 23, 2005)		X						
32		Payroll Worksheets – Fabrication and Slaughter (July 24 2005 – December 31, 2005)		X						
33		Payroll Worksheets – Fabrication and Slaughter (January 1, 2006 – December 30, 2006)		X						
34		Payroll Worksheets – Fabrication and Slaughter (January 1, 2007 – December 31, 2007)		X						
35		Payroll Worksheets – Fabrication and Slaughter (January 1, 2008 – December 31, 2008)		X						
36		Payroll Worksheets – Fabrication and Slaughter (January 1, 2009 – February 28, 2009)		X						
37		Check/Payroll Register for weeks ending June 4, 2005 – July 2, 2005		X						
38		Check/Payroll Register for weeks ending December 3, 2005 – December 31, 2005		X						
39		Check/Payroll Register for weeks ending May 13, 2006 – July 1, 2006		X						

P = prejudicial

40			Check/Payroll Register for weeks ending December 2, 2006 – January 6, 2007		X						
41			Check/Payroll Register for weeks ending June 2, 2007 – June 30, 2007		X						
42			Check/Payroll Register for weeks ending December 1, 2007 – December 22, 2007		X						
43			Check/Payroll Register for weeks ending June 7, 2008 – July 5, 2008		X						
44			Check/Payroll Register for weeks ending October 18, 2008 – December 20, 2008		X						
45			Check/Payroll Register for weeks ending December 27, 2008 – February 28, 2009		X						
46			Nebraska Beef HACCP Plan – Fabrication D116999-D117047		X	R, H, P	F, P				
47			Nebraska Beef HACCP Plan – Slaughter D117048-D117117		X	R, H, P	F, P				
48			Notice of Collective Action Lawsuit (English and Spanish versions) D117118-D117120		X	R, P	H				
49			Notices and memos to Employees by Nebraska Beef D117121-D117794		X	R, F, P	H, P				
50			Personnel File/Documents – Terrence Moore D117795-D117880		X		R, F, H				
51			Personnel File/Documents – Antonio Aguilar D117881-D117936		X		R, F, H				

R, F, H

52			Personnel File/Documents – Elizabeth Aguilar D117937-D117960		X							
53			Personnel File/Documents – Marcos Aguilar D117961-D117981		X							
54			Personnel File/Documents – Juan Alejo, Jr. D117982-D118045		X							
55			Personnel File/Documents – Martin Alvarado D118046-D118060		X							
56			Personnel File/Documents – Jose Becerra D118061-D118090		X							
57			Personnel File/Documents – Efrain Bribiesca D118091-D118102		X							
58			Personnel File/Documents – Jose Campos D118103-D118131		X							
59			Personnel File/Documents – Santos Carasquillo D118132-D118142		X							
60			Personnel File/Documents – Eloy Carrizalez D118143-D118153		X							
61			Personnel File/Documents – Gerardo Ceballos D118154-D118164		X							
62			Personnel File/Documents – Adan Chaidan D118165-D118219		X							
63			Personnel File/Documents – David Chuol D118220-D118237		X							

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64			Personnel File/Documents – Fermin Cortez D118238-D118287	X						
65			Personnel File/Documents – Fernandez Godo D118288-D118302	X						
66			Personnel File/Documents – Isaias Fernandez D118303-D118340	X						
67			Personnel File/Documents – Daniel Flores D118341-D118396	X						
68			Personnel File/Documents – Raul Gallardo D118397-D118425	X						
69			Personnel File/Documents – Teresa Gallegos D118426-D118486	X						
70			Personnel File/Documents – Jose M. Garcia D118487-D118521	X						
71			Personnel File/Documents – Maria M. Garcia D118522-D118597	X						
72			Personnel File/Documents – Ricardo Garcia D118598-D118628	X						
73			Personnel File/Documents – Jose A. Guardado D118629-D118649	X						
74			Personnel File/Documents – Jose E. Guardado D118650-D118686	X						
75			Personnel File/Documents – Miguel Gutierrez D118687-D118730	X						

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R, F, H

76			Personnel File/Documents – Fregernald Hicks D118731-118875		X						
77			Personnel File/Documents – Jose Ixta D118876-D119114		X						
78			Personnel File/Documents – Octavio Ixta D119115-D119192		X						
79			Personnel File/Documents – Alejandro Jimenez D119193-D119234		X						
80			Personnel File/Documents – Juana Jimenez D119235-D119262		X						
81			Personnel File/Documents – Maria Moran D119263-D119279		X						
82			Personnel File/Documents – Lorenzo Jimenez D119280-D119316		X						
83			Personnel File/Documents – Rafael Leiva D119317-D119334		X						
84			Personnel File/Documents – Alonzo Loza D119335-D119361		X						
85			Personnel File/Documents – Bernardo Loza D119362-D119401		X						
86			Personnel File/Documents – Frankie Martinez D119402-D119423		X						
87			Personnel File/Documents – Refugio Martinez D119424-D119460		X						

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88			Personnel File/Documents – Ricardo Martinez D119461-D119497		X						
89			Personnel File/Documents – Ruben Martinez D119498-D119577		X						
90			Personnel File/Documents – Beatriz Mendoza D119578-D119591		X						
91			Personnel File/Documents – David Murphy D119592-D119608		X						
92			Personnel File/Documents – Robert L. Nunez, Jr. D119609-D119713		X						
93			Personnel File/Documents – Francisco Perez D119714-D119732		X						
94			Personnel File/Documents – Elmer Rivas D119733-D119774		X						
95			Personnel File/Documents – Jose Rivas D119775-D119841		X						
96			Personnel File/Documents – Aureliano Rodriguez D119842-D119901		X						
97			Personnel File/Documents – Jose Rosales D119902-D119943		X						
98			Personnel File/Documents – Jose Sanchez Mina D119944-D119998		X						
99			Personnel File/Documents – Rosa Marie Sasueda D119999-D120051		X						

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100			Personnel File/Documents – Matthew Sharon D120052-D120068		X						
101			Personnel File/Documents – Travis Sharon D120069-D120081		X						
102			Personnel File/Documents – Jose Soltero D120082-D120192		X						
103			Personnel File/Documents – Gustavo Soto D120193-D120202		X						
104			Personnel File/Documents – J. Transito Ramirez D120203-D120258		X						
105			Personnel File/Documents – Eduardo Vallin D120259-D120443		X						
106			Personnel File/Documents – Jesus Vallin D120444-D120526		X						
107			Personnel File/Documents – Maria Vallin D120527-D120592		X						
108			Personnel File/Documents – Roberto Vasquez D120593-D120634		X						
109			Personnel File/Documents – Casimiro Ventura Gonzalez D120635-D120667		X						
110			Personnel File/Documents – Eduardo Ventura D120668-D120697		X						
111			Personnel File/Documents – Terry Johnson Johnson000001- Johnson000024		X						



P = prejudicial

112			Personnel File/Documents – Javier Moreno Moreno000001-Moreno000020		X		R, F, H			
113			Personnel File/Documents – Isaac Valencia Valencia000001- Valencia000028		X		R, F, H			
114			Personnel File/Documents – George Gulley		X		R F H			
115			Personnel File/Documents – Hipolito Lara		X		R F H			
116			Personnel File/Documents – Bryan McNeil		X		RF H			
117			Personnel File/Documents – Jaime Perez		X		RF H			
118			Personnel File/Documents – Ines Soltero		X		RF H			
119			Further Personnel File/Documents – David Chuol		X		RF H			
120			Further Personnel File/Documents – Fermin Cortez		X		RF H			
121			List of Payroll Spreadsheets produced to Plaintiffs D122666-D122670		X		R			
122			Nebraska Beef SSOP Program D122671-D122680		X		RF H <sub>P</sub>			
123			Documents Produced at the Deposition of Dr. Jeffrey Fernandez	X			All			
124			Documents Produced at the Deposition of Dr. David Marx		X		All			
125			Videos and Photographs taken by Dr. Kenneth Mericle at December 17, 2008 Plant Inspection	X			All			

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126		Videos and Photographs taken by Dr. Kenneth Mericle at July 22, 2009 Plant Inspection	X			A			
127		Videos and Photographs taken by Dr. Jeffrey Fernandez at September 15-17 2009 Plant Inspection	X						
128		Orientation videos	X			R F	H		
129		Expert Disclosure and Report of Dr. Kenneth Mericle	X			R O	H F		
130		Updated Expert Report of Dr. Kenneth Mericle	X				H		
131		Dr. Kenneth Mericle's File	X				H		
132		Data regarding Expert Report of Dr. Kenneth Mericle	X				H		
133		Revised Data regarding Expert Report of Dr. Kenneth Mericle	X				H		
134		Expert Disclosure and Report of Dr. Dwight Steward	X				H		
135		Data Spreadsheets regarding Expert Report of Dr. Dwight Steward	X				H		
136		Rebuttal Expert Designation and Report of Dr. Dwight Steward	X				H		
137		Rebuttal Expert Designation and Report of Dr. Kenneth Mericle	X				H		
138		Expert Report of Dr. Jeffrey Fernandez	X						
139		Data Sheets and Spreadsheets regarding Expert Report of Dr. Jeffrey Fernandez	X						
140		Spreadsheets produced at Dr. Jeffrey Fernandez's Deposition	X						
141		Dr. Jeffrey Fernandez's file	X				F		
142		Expert Report of Dr. David Marx	X						



D = duplicative  
 P = prejudicial

143		Data regarding Expert Report of Dr. David Marx	X						
144		Dr. David Marx's file	X			AII			
145		Plaintiffs' First Set of Interrogatories		X		PD RH			
146		Defendants' Answers to Plaintiffs' Interrogatories		X		RH D			
147		Plaintiffs' Second Set of Interrogatories to Defendant Nebraska Beef, et al.		X		PD RH			
148		Defendants' Answers to Plaintiffs' Second Set of Interrogatories		X		RH D			
149		Plaintiffs' Third Set of Interrogatories to Defendant Nebraska Beef, et al.		X		PD RH			
150		Defendants' Answers to Plaintiffs' Third Set of Interrogatories		X		RH D			
151		Plaintiffs' First Set of Requests For Production of Documents		X		PD RH			
152		Defendants' Responses to Plaintiffs' Requests For Production of Documents		X		RH D			
153		Plaintiffs' Second Set of Requests For Production of Documents		X		PD RH			
154		Defendants' Responses to Plaintiffs' Second Set of Requests For Production of Documents		X		RH D			
155		Plaintiffs' Third Set of Requests For Production of Documents		X		PH RD			
156		Defendants' Responses to Plaintiffs' Third Set of Requests For Production of Documents		X		RH D			
157		Interrogatories to Plaintiffs		X		RH D			

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158			Plaintiffs' Responses to Defendant Nebraska Beef, et al.'s Interrogatories		X						
159			Defendants' Interrogatories to Plaintiff, Christopher Stubbs		X						
160			Defendants' Interrogatories to Plaintiff, Alfred Pratt		X						
161			Defendants' Interrogatories to Plaintiff, Antonio Torres Ramos		X						
162			Defendants' Interrogatories to Plaintiff, Darrell Carter		X						
163			Defendants' Interrogatories to Plaintiff, David Chuol		X						
164			Defendants' Interrogatories to Plaintiff, David Jimenez		X						
165			Defendants' Interrogatories to Plaintiff, David Scott Baird		X						
166			Defendants' Interrogatories to Plaintiff, Edward Howard		X						
167			Defendants' Interrogatories to Plaintiff, Elias Escalante Munoz		X						
168			Defendants' Interrogatories to Plaintiff, Eric Williams		X						
169			Defendants' Interrogatories to Plaintiff, Ernesto Contreras		X						
170			Defendants' Interrogatories to Plaintiff, Willie Frazier		X						
171			Defendants' Interrogatories to Plaintiff, Floyd H. Brown		X						
172			Defendants' Interrogatories to Plaintiff, Frankceal Miller		X						
173			Defendants' Interrogatories to Plaintiff, George Gulley		X						
174			Defendants' Interrogatories to Plaintiff, Gregory Garcia		X						

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R, H, D

175			Defendants' Interrogatories to Plaintiff, Ines Soltero		X						
176			Defendants' Interrogatories to Plaintiff, Isaac Valencia		X						
177			Defendants' Interrogatories to Plaintiff, Javier Moreno Lopez		X						
178			Defendants' Interrogatories to Plaintiff, Jerome Green		X						
179			Defendants' Interrogatories to Plaintiff, Jesus Vallin		X						
180			Defendants' Interrogatories to Plaintiff, Jorge Contreras		X						
181			Defendants' Interrogatories to Plaintiff, Jorge Juan Contreras Lopez		X						
182			Defendants' Interrogatories to Plaintiff, Juan Magana Heredia		X						
183			Defendants' Interrogatories to Plaintiff, Ladell Thornton		X						
184			Defendants' Interrogatories to Plaintiff, Lorenzo Jimenez		X						
185			Defendants' Interrogatories to Plaintiff, Kcee Graham		X						
186			Defendants' Interrogatories to Plaintiff, Michael L. Edwards		X						
187			Defendants' Interrogatories to Plaintiff, Michael Minor Sr.		X						
188			Defendants' Interrogatories to Plaintiff, Michael S. Funkhouser		X						
189			Defendants' Interrogatories to Plaintiff, Milton Barron		X						
190			Defendants' Interrogatories to Plaintiff, Nathaniel Hughes		X						
191			Defendants' Interrogatories to Plaintiff, Norman Carr Sr.		X						
192			Defendants' Interrogatories to Plaintiff, Patrick Jenum		X						

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193		Defendants' Interrogatories to Plaintiff, Perry M. James		X						
194		Defendants' Interrogatories to Plaintiff, Robert Taylor		X						
195		Defendants' Interrogatories to Plaintiff, Ronald Cooper		X						
196		Defendants' Interrogatories to Plaintiff, Santiago Perez Cruz		X						
197		Defendants' Interrogatories to Plaintiff, Santos Perez		X						
198		Defendants' Interrogatories to Plaintiff, Steven R. Steele		X						
199		Defendants' Interrogatories to Plaintiff, Strozier Moore		X						
200		Defendants' Interrogatories to Plaintiff, Tarquin G. Henry		X						
201		Defendants' Interrogatories to Plaintiff, Terry Johnson		X						
202		Defendants' Interrogatories to Plaintiff, Timothy Novotny		X						
203		Defendants' Interrogatories to Plaintiff, Tramayne Williams		X						
204		Defendants' Interrogatories to Plaintiff, Fermin Cortez		X						
205		Plaintiffs' Answers and Objections to Defendants' Interrogatories to Plaintiffs and Class Members		X						
206		Supplemental Answers of Lorenzo Jimenez to Defendants' Interrogatories, with Verification		X						
207		Supplemental Answers of Ines Soltero to Defendants' Interrogatories, with Verification		X						



R, H, D

208			Supplemental Answers of Santiago Perez Cruz to Defendants' Interrogatories, with Verification		X						
209			Supplemental Answers of Ernesto Contreras to Defendants' Interrogatories		X						
210			Supplemental Answers of Antonio Torres Ramos to Defendants' Interrogatories, with Verification		X						
211			Supplemental Answers of Elias Escalante Munoz to Defendants' Interrogatories, with Verification		X						
212			Supplemental Answers of Jorge Juan Contreras Lopez to Defendants' Interrogatories, with Verification		X						
213			Supplemental Answers of Floyd Brown to Defendants' Interrogatories, with Verification		X						
214			Supplemental Answers of Ronald Cooper to Defendants' Interrogatories, with Verification		X						
215			Supplemental Answers of Isaac Valencia to Defendants' Interrogatories		X						
216			Supplemental Answers of Jesus Vallin to Defendants' Interrogatories, with Verification		X						
217			Supplemental Answers of Norman Carr Sr. to Defendants' Interrogatories, with Verification		X						
218			Supplemental Answers of Darrell Carter to Defendants' Interrogatories, with Verification		X						



R, H, D

219			Supplemental Answers of Michael Edwards to Defendants' Interrogatories, with Verification		X						
220			Supplemental Answers of David Jimenez to Defendants' Interrogatories		X						
221			Supplemental Answers of Juan Magana Heredia to Defendants' Interrogatories, with Verification		X						
222			Supplemental Answers of David Scott Baird to Defendants' Interrogatories, with Verification		X						
223			Supplemental Answers of David Chuol to Defendants' Interrogatories		X						
224			Supplemental Answers of Michael Funkhouser to Defendants' Interrogatories		X						
225			Supplemental Answers of Kcee Graham to Defendants' Interrogatories		X						
226			Supplemental Answers of George Gulley to Defendants' Interrogatories		X						
227			Supplemental Answers of Tarquin Henry to Defendants' Interrogatories		X						
228			Supplemental Answers of Nathaniel Hughes to Defendants' Interrogatories		X						
229			Supplemental Answers of Perry James to Defendants' Interrogatories		X						
230			Supplemental Answers of Patrick Jennum to Defendants' Interrogatories		X						

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231		Supplemental Answers of Frankceal Miller to Defendants' Interrogatories		X					
232		Supplemental Answers of Michael Minor to Defendants' Interrogatories		X					
233		Supplemental Answers of Alfred Pratt to Defendants' Interrogatories		X					
234		Supplemental Answers of Christopher Stubbs to Defendants' Interrogatories		X					
235		Supplemental Answers of Robert Taylor to Defendants' Interrogatories		X					
236		Supplemental Answers of Ladell Thorton to Defendants' Interrogatories		X					
237		Supplemental Answers of Tramayne Williams to Defendants' Interrogatories		X					
238		Further Supplemental Answers of Ernesto Contreras to Defendants' Interrogatories, with Verification		X					
239		Further Supplemental Answers of Isaac Valencia to Defendants' Interrogatories		X					
240		Defendants' Request For Production of Documents to Plaintiff Antonio Torres Ramos		X					
241		Defendants' Request For Production of Documents to Plaintiff Michael L. Edwards		X					
242		Defendants' Request For Production of Documents to Plaintiff Juan Magana Heredia		X					
243		Defendants' Request For Production of Documents to Plaintiff Jesus Vallin		X					



R, H, D

244			Defendants' Request For Production of Documents to Plaintiff Ernesto Contreras		X						
245			Defendants' Request For Production of Documents to Plaintiff Willie Frazier		X						
246			Defendants' Request For Production of Documents to Plaintiff Floyd H. Brown		X						
247			Defendants' Request For Production of Documents to Plaintiff Nathaniel Hughes		X						
248			Defendants' Request For Production of Documents to Plaintiff David Scott Baird		X						
249			Defendants' Request For Production of Documents to Plaintiff David Jimenez		X						
250			Defendants' Request For Production of Documents to Plaintiff Alfred Pratt		X						
251			Defendants' Request For Production of Documents to Plaintiff Michael Minor, Sr.		X						
252			Defendants' Request For Production of Documents to Plaintiff Edward Howard		X						
253			Defendants' Request For Production of Documents to Plaintiff Michael S. Funkhouser		X						
254			Defendants' Request For Production of Documents to Plaintiff Steven R. Steele		X						
255			Defendants' Request For Production of Documents to Plaintiff Eric Williams		X						
256			Defendants' Request For Production of Documents to Plaintiff George Gulley		X						



R, H, D

257			Defendants' Request For Production of Documents to Plaintiff Milton Barron		X						
258			Defendants' Request For Production of Documents to Plaintiff Strozier Moore		X						
259			Defendants' Request For Production of Documents to Plaintiff Jerome Green		X						
260			Defendants' Request For Production of Documents to Plaintiff Perez Cruz		X						
261			Defendants' Request For Production of Documents to Plaintiff Elias Escalante Munoz		X						
262			Defendants' Request For Production of Documents to Plaintiff Jorge Juan Contreras Lopez		X						
263			Defendants' Request For Production of Documents to Plaintiff Darrell Carter		X						
264			Defendants' Request For Production of Documents to Plaintiff Norman Carr, Sr.		X						
265			Defendants' Request For Production of Documents to Plaintiff Ronald Cooper		X						
266			Defendants' Request For Production of Documents to Plaintiff Tarquin Gene Henry		X						
267			Defendants' Request For Production of Documents to Plaintiff Kcee Graham		X						
268			Defendants' Request For Production of Documents to Plaintiff Perry M. James		X						
269			Defendants' Request For Production of Documents to Plaintiff Frankceal Miller		X						



R, H, D

270			Defendants' Request For Production of Documents to Plaintiff Patrick Jenum		X						
271			Defendants' Request For Production of Documents to Plaintiff Timothy Novotny		X						
272			Defendants' Request For Production of Documents to Plaintiff Isaac E. Valencia		X						
273			Defendants' Request For Production of Documents to Plaintiff Robert Taylor		X						
274			Defendants' Request For Production of Documents to Plaintiff Ladell Thorton		X						
275			Defendants' Request For Production of Documents to Plaintiff Christopher Stubbs		X						
276			Defendants' Request For Production of Documents to Plaintiff Tramayne Williams		X						
277			Defendants' Request For Production of Documents to Plaintiff Ines Soltero		X						
278			Defendants' Request For Production of Documents to Plaintiff David Chuol		X						
279			Defendants' Request For Production of Documents to Plaintiff Fermin Cortez		X						
280			Defendants' Request For Production of Documents to Plaintiff Gregory Garcia		X						
281			Defendants' Request For Production of Documents to Plaintiff Terry Johnson		X						
282			Defendants' Request For Production of Documents to Plaintiff Lorenzo Jimenez		X						

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283		Defendants' Request For Production of Documents to Plaintiff Santos Perez	X		R H D			
284		Defendants' Request For Production of Documents to Plaintiff Javier Moreno Lopez	X		R H D			
285		Defendants' Request For Production of Documents to Plaintiff Jorge Contreras	X		R H D			
286		Plaintiffs' Responses and Objections to Defendants' Request For Production of Documents To Plaintiffs and Class Members	X		R H D			
287		Hire Listing 1-2004 to 2-26-10 (Excel Spreadsheet)	X		R			
288		EmpListing March 2005 Update 11-24 (Excel Spreadsheet)	X		R			
289		Interrogatories PPE Spreadsheet 2 (Excel Spreadsheet)	X		All			
290		FAB-Mar-6-2004 through FAB-Dec-25-2004 (Fab Payroll 2004 Excel Spreadsheets)	X		D			
291		FAB-Jan-1-2005 through FAB-Dec-31-2005 (Fab Payroll 2005 Excel Spreadsheets)	X		D			
292		FAB-Jan-7-2006 through FAB-Dec-30-2006 (Fab Payroll 2006 Excel Spreadsheets)	X		D			
293		FAB-Jan-6-2007 through FAB-Dec-29-2007 (Fab Payroll 2007 Excel Spreadsheets)	X		D			
294		FAB-Jan-5-2008 through FAB-Dec-27-2008 (Fab Payroll 2008 Excel Spreadsheets)	X		D			
295		FAB-Jan-3-2009 through FAB-Dec-26-2009 (Fab Payroll 2009 Excel Spreadsheets)	X		D			

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296			FAB-Jan-2-2010 through FAB-Apr-24-2010 (Fab Payroll 2010 Excel Spreadsheets)	X		D			
297			MGM-Mar-6-2004 through MGM-Dec-25-2004 (Slaughter Payroll 2004 Excel Spreadsheets)	X		D			
298			MGM-Jan-1-2005 through MGM-Dec-31-2005 (Slaughter Payroll 2005 Excel Spreadsheets)	X		D			
299			MGM-Jan-7-2006 through MGM-Dec-30-2006 (Slaughter Payroll 2006 Excel Spreadsheets)	X		D			
300			MGM-Jan-6-2007 though MGM-Dec-29-2007 (Slaughter Payroll 2007 Excel Spreadsheets)	X		D			
301			MGM-Jan-5-2008 through MGM-Dec-27-2008 (Slaughter Payroll 2008 Excel Spreadsheets)	X		D			
302			MGM-Jan-3-2009 through MGM-Dec-26-2009 (Slaughter Payroll 2009 Excel Spreadsheets)	X		D			
303			MGM-Jan-2-2010 through MGM-Apr-24-2010 (Slaughter Payroll 2010 Excel Spreadsheets)	X		D			
304			Pictures (three total) of employee postings/fliers at Nebraska Beef	X		R			
305			Weekly Status Reports from Rust Consulting (February 27, 2009 through August 7, 2009)	X		All			
306			Weekly Opt-In Consent Form Reports from Rust Consulting (February 27, 2009 through August 7, 2009)	X		All			

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P=Prejudicial O=Witness Availability,  
 Objections Reserved  
 During Deposition

307		Weekly Undeliverable Reports from Rust Consulting (February 27, 2009 through August 7, 2009)		X		All			
308		True and Correct copy of the Deposition of Orion Kenneth Bell, including all exhibits, taken October 15, 2009		X	H F	R P O			
309		True and Correct copy of the Deposition of David Chuol, including all exhibits, taken October 15, 2009		X	H F	R P O			
310		True and Correct copy of the Deposition of Lisa A. Cleary, including all exhibits, taken October 20, 2009		X	H F	R P O			
311		True and Correct copy of the Deposition of Joel Corona, including all exhibits, taken March 25, 2010		X	H F	R P O			
312		True and Correct copy of the Deposition of Fermin Cortez (non-appearance), including all exhibits, taken October 16, 2009		X					
313		True and Correct copy of the Deposition of Adrian Diaz, including all exhibits, taken November 23, 2009		X	H P	R F O			
314		True and Correct copy of the Deposition of Jeffrey Fernandez, including all exhibits, taken December 10, 2009	X		H F	R P O			
315		True and Correct copy of the Deposition of Frederick Fromi, including all exhibits, taken March 24, 2010		X	H F	R P O			
316		True and Correct copy of the Deposition of George Gulley, including all exhibits, taken October 15, 2009		X	H F	R P O			



H, R, F, P, O

317			True and Correct copy of the Deposition of William Hughes, including all exhibits, taken July 23, 2009		X						
318			True and Correct copy of the Deposition of Lorenzo Jimenez, including all exhibits, taken March 24, 2010		X						
319			True and Correct copy of the Deposition of Terry Johnson, including all exhibits, taken March 25, 2010		X						
320			True and Correct copy of the Deposition of Tony Joy, including all exhibits, taken March 12, 2009		X						
321			True and Correct copy of the Deposition of Julian Martinez, including all exhibits, taken July 23, 2009		X						
322			True and Correct copy of the Deposition of David Marx, including all exhibits, taken November 24, 2009		X						
323			True and Correct copy of the Deposition of Jennifer McElroy, including all exhibits, taken March 11, 2009		X						
324			True and Correct copy of the Deposition of Bryan McNeil, including all exhibits, taken October 22, 2009		X						
325			Amendment to Testimony Page to the Deposition of Bryan McNeil		X						
326			True and Correct copy of the Deposition of Kenneth Mericle, including all exhibits, taken September 24, 2009		X						

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327		True and Correct copy of the Deposition of Dean Miller, including all exhibits, taken December 8, 2009		X							
328		True and Correct copy of the Deposition of Marcelo Montenegro, including all exhibits, taken March 25, 2010		X							
329		True and Correct copy of the Deposition of Lonnie Pace, including all exhibits, taken October 21, 2009		X							
330		True and Correct copy of the Deposition of Ines Soltero, including all exhibits, taken October 22, 2009		X							
331		True and Correct copy of the Deposition of Dwight Steward, including all exhibits, taken on November 11, 2009		X							
332		True and Correct copy of the Deposition of Mike Thatcher, including all exhibits, taken October 13, 2010		X							
333		Sealed portion of the Deposition of Mike Thatcher, including all exhibits, taken October 13, 2010		X							
334		True and Correct copy of the Deposition of James Timmerman, including all exhibits, taken October 14, 2009		X							
335		True and Correct copy of the Deposition of James Timmerman as Person Most Knowledgeable, including all exhibits, taken January 29, 2009		X							
336		True and Correct copy of the Deposition of Sonia Valadez, including all exhibits, taken October 21, 2009		X							

SJR  
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337			True and Correct copy of the Deposition of Isaac Valencia, including all exhibits, taken March 25, 2010		X	H F	R P O			
338			True and Correct copy of the Deposition of Mario Villareal, including all exhibits, taken December 19, 2008		X	H F	R P O			
339			True and Correct copy of the Deposition of Mario Villareal as Person Most Knowledgeable, including all exhibits, taken May 20, 2009		X	H F	R P O			
340			Declaration of Antonio Aguilar with English Translation (Filed on April 10, 2008 in support of Plaintiffs' Motion for Notice to Putative Class Members Pursuant to 28 U.S.C §216(b))		X		H F R			
341			Declaration of Ernesto Contreras with English Translation (Filed on April 10, 2008 in support of Plaintiffs' Motion for Notice to Putative Class Members Pursuant to 28 U.S.C §216(b))		X		H F R			
342			Declaration of Yoana Meija Cuevas with English Translation (Filed on April 10, 2008 in support of Plaintiffs' Motion for Notice to Putative Class Members Pursuant to 28 U.S.C §216(b))		X		H F R			
343			Declaration of Maria M. Garcia with English Translation (Filed on April 10, 2008 in support of Plaintiffs' Motion for Notice to Putative Class Members Pursuant to 28 U.S.C §216(b))		X		H F R			



344		Declaration of Casimiro Ventura Gonzalez with English Translation (Filed on April 10, 2008 in support of Plaintiffs' Motion for Notice to Putative Class Members Pursuant to 28 U.S.C §216(b))	X		H	F	R		
345		Declaration of Jose Guardado with English Translation (Filed on April 10, 2008 in support of Plaintiffs' Motion for Notice to Putative Class Members Pursuant to 28 U.S.C §216(b))	X		H	F	R		
346		Declaration of Juana Jimenez with English Translation (Filed on April 10, 2008 in support of Plaintiffs' Motion for Notice to Putative Class Members Pursuant to 28 U.S.C §216(b))	X		H	F	R		
347		Declaration of Lorenzo Jimenez with English Translation (Filed on April 10, 2008 in support of Plaintiffs' Motion for Notice to Putative Class Members Pursuant to 28 U.S.C §216(b))	X		H	F	R		
348		Declaration of Ignacio Valencia Partida with English Translation (Filed on April 10, 2008 in support of Plaintiffs' Motion for Notice to Putative Class Members Pursuant to 28 U.S.C §216(b))	X		H	F	R		
349		Declaration of Jose Soltero with English Translation (Filed on April 10, 2008 in support of Plaintiffs' Motion for Notice to Putative Class Members Pursuant to 28 U.S.C §216(b))	X		H	F	R		
350		Declaration of Isaac Valencia with English Translation (Filed on April 10, 2008 in support of Plaintiffs' Motion for Notice to Putative Class Members Pursuant to 28 U.S.C §216(b))	X		H	F	R		



O = Best Evidence

351		Affidavit of Mario Villareal and any Attachments (Filed on May 20, 2008 in Opposition to Plaintiff's Motion for Notice to Putative Class Members Pursuant to 28 U.S.C §216(b))	X			R			
352		Affidavit of Tony Joy and any Attachments (Filed on May 20, 2008 in Opposition to Plaintiff's Motion for Notice to Putative Class Members Pursuant to 28 U.S.C §216(b))	X			R			
353		Affidavit of Mario Villareal and any Attachments (Filed on August 25, 2008 in Opposition to Plaintiff's Motion for Notice to Putative Class Members Pursuant to 28 U.S.C §216(b))	X			R			
354		Affidavit of Tony Joy and any Attachments (Filed on August 25, 2008 in Opposition to Plaintiff's Motion for Notice to Putative Class Members Pursuant to 28 U.S.C §216(b))	X			R			
355		Declaration of Ines Soltero with English Translation (Filed on August 21, 2009 in support of Plaintiffs' Motion for Class Certification)		X		R			
356		Declaration of Tramayne Williams (Filed on August 21, 2009 in support of Plaintiffs' Motion for Class Certification)		X		R			
357		Declaration of Christopher Stubbs (Filed on August 21, 2009 in support of Plaintiffs' Motion for Class Certification)		X		R			
358		Declaration of Ladell A. Thornton (Filed on August 21, 2009 in support of Plaintiffs' Motion for Class Certification)		X		R			

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by

H, F, R

359			Declaration of Robert Taylor (Filed on August 21, 2009 in support of Plaintiffs' Motion for Class Certification)		X						
360			Declaration of Timothy E. Novotny (Filed on August 21, 2009 in support of Plaintiffs' Motion for Class Certification)		X						
361			Declaration of Frankceal Miller (Filed on August 21, 2009 in support of Plaintiffs' Motion for Class Certification)		X						
362			Declaration of Patrick Michael Jennum (Filed on August 21, 2009 in support of Plaintiffs' Motion for Class Certification)		X						
363			Declaration of Perry M. James (Filed on August 21, 2009 in support of Plaintiffs' Motion for Class Certification)		X						
364			Declaration of Tarquin Gene Henry (Filed on August 21, 2009 in support of Plaintiffs' Motion for Class Certification)		X						
365			Declaration of Kcee Graham (Filed on August 21, 2009 in support of Plaintiffs' Motion for Class Certification)		X						
366			Declaration of Ronald Cooper (Filed on August 21, 2009 in support of Plaintiffs' Motion for Class Certification)		X						
367			Declaration of Darrell Carter (Filed on August 21, 2009 in support of Plaintiffs' Motion for Class Certification)		X						
368			Declaration of Norman Carr, Sr. (Filed on August 21, 2009 in support of Plaintiffs' Motion for Class Certification)		X						



H, F, R

369			Declaration of David Scott Baird (Filed on August 21, 2009 in support of Plaintiffs' Motion for Class Certification)	X							
370			Declaration of Floyd H. Brown (Filed on August 21, 2009 in support of Plaintiffs' Motion for Class Certification)	X							
371			Declaration of Nathaniel Hughes (Filed on August 21, 2009 in support of Plaintiffs' Motion for Class Certification)	X							
372			Declaration of Willie Frazier (Filed on August 21, 2009 in support of Plaintiffs' Motion for Class Certification)	X							
373			Declaration of Ernesto Contreras with English Translation (Filed on August 21, 2009 in support of Plaintiffs' Motion for Class Certification)	X							
374			Declaration of Jesus Vallin with English Translation (Filed on August 21, 2009 in support of Plaintiffs' Motion for Class Certification)	X							
375			Declaration of Juan Magana Heredia with English Translation (Filed on August 21, 2009 in support of Plaintiffs' Motion for Class Certification)	X							
376			Declaration of Antonio Torres Ramos with English Translation (Filed on August 21, 2009 in support of Plaintiffs' Motion for Class Certification)	X							
377			Declaration of Milton Barron (Filed on August 21, 2009 in support of Plaintiffs' Motion for Class Certification)	X							

SJD  
way

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378			Declaration of George L. Gulley (Filed on August 21, 2009 in support of Plaintiffs' Motion for Class Certification)		X						
379			Declaration of Eric Williams (Filed on August 21, 2009 in support of Plaintiffs' Motion for Class Certification)		X						
380			Declaration of Steven R. Steele (Filed on August 21, 2009 in support of Plaintiffs' Motion for Class Certification)		X						
381			Declaration of Alfred Pratt (Filed on August 21, 2009 in support of Plaintiffs' Motion for Class Certification)		X						
382			Declaration of Michael Minor, Sr. (Filed on August 21, 2009 in support of Plaintiffs' Motion for Class Certification)		X						
383			Declaration of Edward Howard (Filed on August 21, 2009 in support of Plaintiffs' Motion for Class Certification)		X						
384			Declaration of Michael Funkhouser (Filed on August 21, 2009 in support of Plaintiffs' Motion for Class Certification)		X						
385			Declaration of Michael Edwards (Filed on August 21, 2009 in support of Plaintiffs' Motion for Class Certification)		X						
386			Declaration of David Jimenez with English Translation (Filed on August 21, 2009 in support of Plaintiffs' Motion for Class Certification)		X						

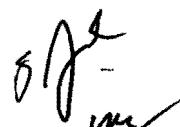
387			Declaration of Jorge Juan Contreras Lopez with English Translation (Filed on August 21, 2009 in support of Plaintiffs' Motion for Class Certification)	X		H F R				
388			Declaration of Elias Escalante Munoz with English Translation (Filed on August 21, 2009 in support of Plaintiffs' Motion for Class Certification)	X		H F R				
389			Declaration of Santiago Perez Cruz with English Translation (Filed on August 21, 2009 in support of Plaintiffs' Motion for Class Certification)	X		H F R				
390			Declaration of Jerome Green (Filed on August 21, 2009 in support of Plaintiffs' Motion for Class Certification)	X		H F R				
391			Declaration of Strozier Moore (Filed on August 21, 2009 in support of Plaintiffs' Motion for Class Certification)	X		H F R				
392			Affidavit of Laurie Costanza (Filed on August 25, 2009 in support of Defendants' Motion to Dismiss Pursuant to Fed.R.Civ.P. 12(b)(1) and 12(b)(6))	X		H F R				
393			Declaration of Mario Villareal (Filed on September 11, 2009 in support of Defendants' Opposition to Plaintiffs' Motion for Class Certification)	X		H F R O				
394			Declaration of Tony Joy (Filed on September 11, 2009 in support of Defendants' Opposition to Plaintiffs' Motion for Class Certification)	X		H F R O				

395		Declaration of Gary Harris (Filed on September 11, 2009 in support of Defendants' Opposition to Plaintiffs' Motion for Class Certification)	X			H			
396		Declaration of Sonia Valadez (Filed on September 11, 2009 in support of Defendants' Opposition to Plaintiffs' Motion for Class Certification)	X			H			
397		Declaration of Lonnie Pace (Filed on September 11, 2009 in support of Defendants' Opposition to Plaintiffs' Motion for Class Certification)	X			H			
398		Declaration of Adrian Diaz (Filed on September 11, 2009 in support of Defendants' Opposition to Plaintiffs' Motion for Class Certification)	X			H			
399		Declaration of Laurie Costanza (Filed on September 11, 2009 in support of Defendants' Opposition to Plaintiffs' Motion for Class Certification)		X		H			
400		Verifications to Plaintiffs' Discovery Responses		X		R P O D			
401		Documents produced by Plaintiff David Jimenez	X			F H R			
402		Documents produced by Plaintiff Lorenzo Jimenez		X		F H R			
403		Plaintiffs' Initial Disclosures Pursuant to FRCP 26(a)		X		R H D O			
404		Defendants' Mandatory Disclosures		X		R H D O			
405		Disclosure of Corporate Affiliations, Financial Interest, and Business Entity Citizenship (Nebraska Beef, Ltd.)		X		R H P O			

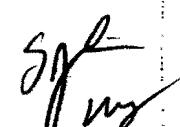
O = Best Evidence *SP*  
 D = Duplicative *W*

406			Disclosure of Corporate Affiliations, Financial Interest, and Business Entity Citizenship (Nebraska Beef, Inc.)		X	H P	R O				
407			Notice of Pendency of Class Action (Rule 23)		X	P	H R				
408			Published Notices of Class Action		X	P	H R				
409			Employee Equipment Tickets for Fermin Cortez		X		R				
410			Employee Equipment Tickets for Gregory Garcia		X		R				
411			Employee Equipment Tickets for Isaac E. Valencia		X		R				
412			Employee Equipment Tickets for Jorge Contreras		X		R				
413			Employee Equipment Tickets for Javier Moreno Lopez		X		R				
414			Employee Equipment Tickets for Santos Perez		X		R				
415			Employee Equipment Tickets for Lorenzo Jimenez		X		R				
416			Employee Equipment Tickets for Terry Johnson		X		R				
417			Employee Equipment Tickets for David Chuol		X		R				
418			Invoices for Equipment Charges for Fermin Cortez		X		R				
419			Invoices for Equipment Charges for Gregory Garcia		X		R				
420			Invoices for Equipment Charges for Isaac E. Valencia		X		R				
421			Invoices for Equipment Charges for Jorge Contreras		X		R				
422			Invoices for Equipment Charges for Javier Moreno Lopez		X		R				

423			Invvoices for Equipment Charges for Santos Perez		X		R			
424			Invvoices for Equipment Charges for Lorenzo Jimenez		X		R			
425			Invvoices for Equipment Charges for Terry Johnson		X		R			
426			Invvoices for Equipment Charges for David Chuol		X		R			
427			Employee Equipment Cards for Fermin Cortez		X		R			
428			Employee Equipment Cards for Gregory Garcia		X		R			
429			Employee Equipment Cards for Isaac E. Valencia		X		R			
430			Employee Equipment Cards for Jorge Contreras		X		R			
431			Employee Equipment Cards for Javier Moreno Lopez		X		R			
432			Employee Equipment Cards for Santos Perez		X		R			
433			Employee Equipment Cards for Lorenzo Jimenez		X		R			
434			Employee Equipment Cards for Terry Johnson		X		R			
435			Employee Equipment Cards for David Chuol		X		R			
436			Invvoices for Equipment Charges for All Class Members		X	R O F	D			
437			Employee Equipment Tickets for All Class Members		X	R O F	D			
438			Employee Equipment Cards for All Class Members		X	R O F	D			
439			Daily Production and Downtime Reports for Fabrication and Slaughter		X		R F			
440			List of Nebraska Beef's Supervisory Employees		X	H	R F			



441			All Depositions and their Exhibits		X		D			
442			All Documents exchanged in Discovery		X		D			
443			All Discovery Requests and Responses		X		D			
444			All Gang Time Sheets		X		D			
445			All Experts' Files		X		R D			
446			All Declarations and their Attachments Submitted in this Case, including their English Translations		X		F H D, R F, H,			
447			All Subpoenaed Records		X		All			
448			All Videos and Photographs taken at Site Inspections		X		All			
449			All Data collected at Site Inspections		X		All			
450			All Data used, collected and/or produced by all Experts		X		All			
451			All Opt In Forms		X		All			
452			All Consent Forms		X		All			
453			All Claim Forms		X		All			
454			Any and All Errata Sheets, Correction Pages and/or Amendment pages to Depositions taken in this case		X		All			
455			Documents Received from United States Department of Labor pertaining to Nebraska Beef		X		All			



P=prejudicial

O= Rule of Completeness

D= Duplicative

456			Sample of Gang Time Sheets – Slaughter (December 8, 2008) D088772, D088777, D088782- D088783, D088792-D088793, D088802-D088803, D088812- D088813, D088822, D088827- D088828, D088837, D088842, D088847, D088852, D088857, D088862, D088867, D088872, D088877, D088882, D088889- D088890, D088899, D088904, D088909, D088914-D088915	X			P O D		
457			Sample of Gang Time Sheets – Fabrication (December 12, 2005) D015728-D015729, D015731, D015748-D015750, D015763- D015765, D015778-D015779, D015792-D015795, D015813- D015815, D015828-D015829, D015838-D015841, D015859- D015863, D015884-D015887, D015904-D015905, D015916- D015917, D015929, D015935- D015936	X			R P O D		
458			Sample of Gang Time Sheets (September 8, 2008 through December 19, 2008) D082827-D082831, D083271- D083275, D083458-D083462, D084188-D084192, D084646- D084650, D085108-D085112, D085569-D085573, D086035- D086039, D086509-D086513, D086703-D086707, D087461- D087465, D087646-D087649, D088075-D088079, D088857- D088861, D089058-D089062	X			P O D		
459			Sample of Invoices for Equipment Charges (October – November 2006) D122367-D122438		X		R P O		
460			Sample of Equipment Cards D122439-D122546		X		R P		

461		Class Action Complaint (filed March 5, 2008)		X	P	H			
462		Answer of Defendant (filed on May 20, 2008)		X	P	H			
463		Consolidated Class and Collective Action Complaint (filed on June 3, 2009)		X	P	H			
464		Defendants' Answer to Plaintiffs' Consolidated Class and Collective Action Complaint (filed on July 28, 2009)		X		H			
465		Defendants' Amended Answer to Plaintiffs' Consolidated Class and Collective Action Complaint (filed on August 10, 2009)		X		R			
466		Appendix A – Calculation of Effective Hourly Wage		X		H			
467		All Exhibits Necessary for Impeachment or Rebuttal		X		R			
468		Plaintiffs may offer exhibits designated by Defendants in their exhibit list		X		All			
469		Payroll Documents from James Jandrain's office (December 10, 2005 – December 16, 2005)	X			All			
470		Payroll Documents from James Jandrain's office (June 17, 2006 – June 23, 2006)	X			All			
471		Payroll Documents from James Jandrain's office (December 1, 2007 – December 7, 2007)	X			All			
472		Payroll Documents from James Jandrain's office (June 14, 2008 – June 20, 2008)	X			All			
473		James Jandrain's Files regarding Nebraska Beef		X		All			

OBJECTIONS

R: Relevancy

SPL  
ver.

H: Hearsay  
A: Authenticity  
O: Other (specify)

May 11, 2010

s/ Carolyn H. Cottrell

CAROLYN H. COTTRELL  
Attorneys for Plaintiffs  
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COTTRELL BRAYTON KONECKY LLP  
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San Francisco, California 94104  
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ccottrell@schneiderwallace.com

*Pls to list demonstrative exhibits on or before  
June 11, 2010.*

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

CERTIFICATE OF SERVICE

I hereby certify that on May 11, 2010, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

Brian J. Brislen	bbrislen@ldmlaw.com, rebeccal@ldmlaw.com
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s/ Carolyn H. Cottrell  
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ccottrell@schneiderwallace.com

*Sgt*  
*ms*

THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

FERMIN CORTEZ, et al.,	)	CASE NO. 8:08-CV00090
	)	
Plaintiffs,	)	
	)	
vs.	)	
	)	
NEBRASKA BEEF, INC. and,	)	
NEBRASKA BEEF, LTD.,	)	
	)	
Defendants.	)	
	)	
DAVID CHUOL, et al.,	)	CASE NO. 8:08-CV00099
	)	
Plaintiffs,	)	
	)	
vs.	)	
	)	
NEBRASKA BEEF, LTD.,	)	
	)	
Defendant.	)	

**NEBRASKA BEEF'S LIST OF TRIAL EXHIBITS**  
**AS OF MAY 24, 2010**

PL.	NE BEEF	DESCRIPTION	OFF	OBJ	RCVD	NOT RCVD	DATE
	701	Blueprint of NE Beef Plant					
	702	Schematic Drawing of NE Beef Slaughter Division					
	703	Schematic Drawing of NE Beef Fabrication Division					
	704	Job Description Chart (D000018-D000026) <i>(Joy Deposition Ex. 3)</i>					
	705	Job Description and Payroll Code List (D000001-D000002) <i>(McElroy Depo Ex. 6)</i>					

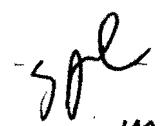


PL.	NE BEEF	DESCRIPTION	OFF	OBJ	RCVD	NOT RCVD	DATE
	706	Document prepared by NE Beef documenting the various areas of the plant and the staffing, along with a list of equipment each area is required to wear while at work. (2 pages) ( <i>Fernandez Depo Ex. 7</i> )		R, H, P, F, A			
	707	Employee Disciplinary Action Report dated 09-02-05 (1 page) ( <i>Cortez Depo Ex. 1</i> )		R, H, P			
	708	Employee Attendance Report dated 09-02-05 (1 page) ( <i>Cortez Depo Ex. 2</i> )		R, H, P			
	709	Employee Attendance Report dated 10-10-05 (1 page) ( <i>Cortez Depo Ex. 3</i> )		R, H, P			
	710	Employee Disciplinary Action Report dated 05-10-06 (1 page) ( <i>Cortez Depo Ex. 4</i> )		R, H, P			
	711	Employee Attendance Report dated 10-16-06 (1 page) ( <i>Cortez Depo Ex. 6</i> )		R, H, P			
	712	Termination Report dated 12-05-06 ( <i>Cortez Depo Ex. 7</i> )		R, H, P			
	713	Notice to Take Deposition of Fermin Cortez (3 pages) ( <i>Cortez Depo Ex. 9</i> )		R, H, P			
	714	Transcript of Proceeding dated 10-16-09		R, H, P			
	715	Curriculum Vitae of David Marx, PhD.		R			
	716	Curriculum Vitae of Jeffrey E. Fernandez, PhD, PE, CPE.					
	717	Expert Report of Dr. Fernandez with attached Appendices A through G, 11-13-09		R, H, F, P			

PL.	NE BEEF	DESCRIPTION	OFF	OBJ	RCVD	NOT RCVD	DATE
	718	Portions of videotape taken by Kenneth Mericle or his associates on December 17, 2008		Reserve			
	719	Portions of videotape taken by Kenneth Mericle or his associates on July 22, 2009		Reserve			
	720	Portions of videotape taken by Dr. Fernandez or his associates on September 15, 2009		Reserve			
	721	Portions of videotape taken by Dr. Fernandez or his associates on September 16, 2009		Reserve			
	722	Portions of videotape taken by Dr. Fernandez or his associates on September 17, 2009		Reserve			
	723	Portions of videotape taken by Dr. Fernandez or his associates on October 20, 2009		Reserve			
	724	NE Beef Gang Timesheets for December 17, 2008		H, A, F, P			
	725	NE Beef Payroll Worksheets for the Slaughter Division for the Week Ending December 20, 2008		H, A, F, P			
	726	NE Beef Payroll Worksheets for the Fabrication Division for the Week Ending December 20, 2008		H, A, F, P			
	727	NE Beef Check Register Report for the week of December 14, 2008 through December 20, 2008		H, A, F, P			
	728	NE Beef Payroll Register for the week of December 14, 2008 through December 20, 2008 (Check Date: 12-26-08)		H, A, F, P			



PL.	NE BEEF	DESCRIPTION	OFF	OBJ	RCVD	NOT RCVD	DATE
	729	NE Beef Gang Timesheets for July 22, 2009		H, A, F, P			
	730	NE Beef Payroll Worksheets for the Slaughter Division for the Week Ending July 25, 2009		H, A, F, P			
	731	NE Beef Payroll Worksheets for the Fabrication Division for the Week Ending July 25, 2009		H, A, F, P			
	732	NE Beef Check Register Report for the week of July 19, 2009 through July 25, 2009		H, A, F, P			
	733	NE Beef Payroll Register for the week of July 19, 2009 through July 25, 2009 (Check Date: 07-31-09)		H, A, F, P			
	734	NE Beef Gang Timesheets for September 15, 2009		H, A, F, P			
	735	NE Beef Gang Timesheets for September 16, 2009		H, A, F, P			
	736	NE Beef Gang Timesheets for September 17, 2009		H, A, F, P			
	737	NE Beef Payroll Worksheets for the Slaughter Division for the Week Ending September 19, 2009		H, A, F, P			
	738	NE Beef Payroll Worksheets for the Fabrication Division for the Week Ending September 19, 2009		H, A, F, P			
	739	NE Beef Check Register Report for the week of September 13, 2009 through September 19, 2009		H, A, F, P			
	740	NE Beef Payroll Register for the week of September 13, 2009 through September 19, 2009 (Check Date: 09-25-09)		H, A, F, P			



PL.	NE BEEF	DESCRIPTION	OFF	OBJ	RCVD	NOT RCVD	DATE
	741	NE Beef Gang Timesheets for October 20, 2009		H, A, F, P			
	742	NE Beef Payroll Worksheets for the Slaughter Division for the Week Ending October 24, 2009		H, A, F, P			
	743	NE Beef Payroll Worksheets for the Fabrication Division for the Week Ending October 24, 2009		H, A, F, P			
	744	NE Beef Check Register Report for the week of October 18, 2009 through October 24, 2009		H, A, F, P			
	745	NE Beef Payroll Register for the week of October 18, 2009 through October 24, 2009 (Check Date: 10-30-09)		H, A, F, P			
	746	Portions of Videotape of Slaughter Division taken on October 28, 2009		Reserve			
	747	NE Beef Gang Timesheets for Slaughter Division dated October 28, 2009		H, A, F, P			
	748	NE Beef Slaughter Division Employee Memos re Changes in Start Time for Slaughter Division, 2004-present (e.g., "will start one hour earlier on 06/23/09")		H, A, F, P			
	749	NE Beef Fabrication Division Employee Memos re Changes in Start Time for Fabrication Division, 2004-present (e.g., "two hour late start on 06/18/08")		H, A, F, P			
	750	NE Beef Employee Personnel File for Plaintiff, Fermin Cortez		R, H, F, P, A			
	751	NE Beef Employee Personnel File for Plaintiff, Gregory Garcia		R, H, F, P, A			
	752	NE Beef Employee Personnel File for Plaintiff, Isaac E. Valencia		R, H, F, P, A			



PL.	NE BEEF	DESCRIPTION	OFF	OBJ	RCVD	NOT RCVD	DATE
	753	NE Beef Employee Personnel File for Plaintiff, Jorge Contreras		R, H, F, P, A			
	754	NE Beef Employee Personnel File for Plaintiff, Javier Moreno Lopez		R, H, F, P, A			
	755	NE Beef Employment Records for Plaintiff, Santos Perez		R, H, F, P, A			
	756	NE Beef Employee Personnel File for Plaintiff, Lorenzo Jimenez		R, H, F, P, A			
	757	NE Beef Employee Personnel File for Plaintiff, Terry Johnson		R, H, F, P, A			
	758	NE Beef Employee Personnel File for Plaintiff, David Chuol		R, H, F, P, A			
	759	Employee Equipment Cards for Plaintiff, Fermin Cortez		Reserve			
	760	Employee Equipment Cards for Plaintiff, Gregory Garcia		Reserve			
	761	Employee Equipment Cards for Plaintiff, Isaac E. Valencia		Reserve			
	762	Employee Equipment Cards for Plaintiff, Jorge Contreras		Reserve			
	763	Employee Equipment Cards for Plaintiff, Javier Moreno Lopez		Reserve			
	764	Employee Equipment Cards for Plaintiff, Lorenzo Jimenez		Reserve			
	765	Employee Equipment Cards for Plaintiff, Terry Johnson		Reserve			
	766	Employee Equipment Cards for Plaintiff, David Chuol		Reserve			



PL.	NE BEEF	DESCRIPTION	OFF	OBJ	RCVD	NOT RCVD	DATE
	767	Employee Equipment Tickets (Receipts) for Plaintiff, Fermin Cortez		Reserve			
	768	Employee Equipment Tickets (Receipts) for Plaintiff, Gregory Garcia		Reserve			
	769	Employee Equipment Tickets (Receipts) for Plaintiff, Isaac E. Valencia		Reserve			
	770	Employee Equipment Tickets (Receipts) for Plaintiff, Jorge Contreras		Reserve			
	771	Employee Equipment Tickets (Receipts) for Plaintiff, Javier Moreno Lopez		Reserve			
	772	Employee Equipment Tickets (Receipts) for Plaintiff, Lorenzo Jimenez		Reserve			
	773	Employee Equipment Tickets (Receipts) for Plaintiff, Terry Johnson		Reserve			
	774	Employee Equipment Tickets (Receipts) for Plaintiff, David Chuol		Reserve			
	775	Chart Defining NE Beef Personal Protective Equipment Categories		R, H, P, F. A			
	776	Videotape Showing Beginning of Day and End of Day in Slaughter Division		Reserve			
	777	Photographs of Slaughter Department (taken when plant was not in production)		R, P, F, A			
	778	Photographs of Fabrication Department (taken when plant was not in production)		R, P, F, A			
	779	Photographs of Pre-Fabrication Area (taken when plant was not in production)		R, P, F, A			
	780	Photographs of Pack Off Area (taken when plant was not in production)		R, P, F, A			

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PL.	NE BEEF	DESCRIPTION	OFF	OBJ	RCVD	NOT RCVD	DATE
	781	Photographs of Cooler (taken when plant was not in production)		R, P, F, A			
	782	Video Clips of Slaughter Department (taken when plant was not in production)		Reserve			
	783	Video Clips of Fabrication Department (taken when plant was not in production)		Reserve			
	784	Video Clips of Pre-Fabrication Area (taken when plant was not in production)		Reserve			
	785	Video Clips of Pack Off Area (taken when plant was not in production)		Reserve			
	786	Video Clips of Cooler (taken when plant was not in production)		Reserve			
	787	Packet of all NE Beef Gang Timesheets for Slaughter and Fabrication, all NE Beef Payroll Worksheets for Slaughter and Fabrication, NE Beef Check Register Report and NE Beef Payroll Register for work week: <b>March 7-13, 2004.</b>		H, A, F, P			
	788	Packet of all NE Beef Gang Timesheets for Slaughter and Fabrication, all NE Beef Payroll Worksheets for Slaughter and Fabrication, NE Beef Check Register Report and NE Beef Payroll Register for work week: <b>April 4-10, 2004.</b>		H, A, F, P			
	789	Packet of all NE Beef Gang Timesheets for Slaughter and Fabrication, all NE Beef Payroll Worksheets for Slaughter and Fabrication, NE Beef Check Register Report and NE Beef Payroll Register for work week: <b>July 4-10, 2004.</b>		H, A, F, P			

PL.	NE BEEF	DESCRIPTION	OFF	OBJ	RCVD	NOT RCVD	DATE
	790	Packet of all NE Beef Gang Timesheets for Slaughter and Fabrication, all NE Beef Payroll Worksheets for Slaughter and Fabrication, NE Beef Check Register Report and NE Beef Payroll Register for work week: <b>October 3-9, 2004.</b>		H, A, F, P			
	791	Packet of all NE Beef Gang Timesheets for Slaughter and Fabrication, all NE Beef Payroll Worksheets for Slaughter and Fabrication, NE Beef Check Register Report and NE Beef Payroll Register for work week: <b>January 9-15, 2005.</b>		H, A, F, P			
	792	Packet of all NE Beef Gang Timesheets for Slaughter and Fabrication, all NE Beef Payroll Worksheets for Slaughter and Fabrication, NE Beef Check Register Report and NE Beef Payroll Register for work week: <b>April 10-16, 2005.</b>		H, A, F, P			
	793	Packet of all NE Beef Gang Timesheets for Slaughter and Fabrication, all NE Beef Payroll Worksheets for Slaughter and Fabrication, NE Beef Check Register Report and NE Beef Payroll Register for work week: <b>July 10-16, 2005.</b>		H, A, F, P			
	794	Packet of all NE Beef Gang Timesheets for Slaughter and Fabrication, all NE Beef Payroll Worksheets for Slaughter and Fabrication, NE Beef Check Register Report and NE Beef Payroll Register for work week: <b>October 9-15, 2005.</b>		H, A, F, P			
	795	Packet of all NE Beef Gang Timesheets for Slaughter and Fabrication, all NE Beef Payroll Worksheets for Slaughter and Fabrication, NE Beef Check Register Report and NE Beef Payroll Register for work week: <b>January 15-21, 2006.</b>		H, A, F, P			



PL.	NE BEEF	DESCRIPTION	OFF	OBJ	RCVD	NOT RCVD	DATE
	796	Packet of all NE Beef Gang Timesheets for Slaughter and Fabrication, all NE Beef Payroll Worksheets for Slaughter and Fabrication, NE Beef Check Register Report and NE Beef Payroll Register for work week: <b>April 16-22, 2006.</b>		H, A, F, P			
	797	Packet of all NE Beef Gang Timesheets for Slaughter and Fabrication, all NE Beef Payroll Worksheets for Slaughter and Fabrication, NE Beef Check Register Report and NE Beef Payroll Register for work week: <b>July 16-22, 2006.</b>		H, A, F, P			
	798	Packet of all NE Beef Gang Timesheets for Slaughter and Fabrication, all NE Beef Payroll Worksheets for Slaughter and Fabrication, NE Beef Check Register Report and NE Beef Payroll Register for work week: <b>October 15-21, 2006.</b>		H, A, F, P			
	799	Packet of all NE Beef Gang Timesheets for Slaughter and Fabrication, all NE Beef Payroll Worksheets for Slaughter and Fabrication, NE Beef Check Register Report and NE Beef Payroll Register for work week: <b>January 21-27, 2007.</b>		H, A, F, P			
	800	Packet of all NE Beef Gang Timesheets for Slaughter and Fabrication, all NE Beef Payroll Worksheets for Slaughter and Fabrication, NE Beef Check Register Report and NE Beef Payroll Register for work week: <b>April 22-28, 2007.</b>		H, A, F, P			
	801	Packet of all NE Beef Gang Timesheets for Slaughter and Fabrication, all NE Beef Payroll Worksheets for Slaughter and Fabrication, NE Beef Check Register Report and NE Beef Payroll Register for work week: <b>July 22-28, 2007.</b>		H, A, F, P			



PL.	NE BEEF	DESCRIPTION	OFF	OBJ	RCVD	NOT RCVD	DATE
	802	Packet of all NE Beef Gang Timesheets for Slaughter and Fabrication, all NE Beef Payroll Worksheets for Slaughter and Fabrication, NE Beef Check Register Report and NE Beef Payroll Register for work week: <b>October 21-27, 2007.</b>		H, A, F, P			
	803	Packet of all NE Beef Gang Timesheets for Slaughter and Fabrication, all NE Beef Payroll Worksheets for Slaughter and Fabrication, NE Beef Check Register Report and NE Beef Payroll Register for work week: <b>January 27-February 2, 2008.</b>		H, A, F, P			
	804	Packet of all NE Beef Gang Timesheets for Slaughter and Fabrication, all NE Beef Payroll Worksheets for Slaughter and Fabrication, NE Beef Check Register Report and NE Beef Payroll Register for work week: <b>April 27-May 3, 2008.</b>		H, A, F, P			
	805	Packet of all NE Beef Gang Timesheets for Slaughter and Fabrication, all NE Beef Payroll Worksheets for Slaughter and Fabrication, NE Beef Check Register Report and NE Beef Payroll Register for work week: <b>July 27-August 2, 2008.</b>		H, A, F, P			
	806	Packet of all NE Beef Gang Timesheets for Slaughter and Fabrication, all NE Beef Payroll Worksheets for Slaughter and Fabrication, NE Beef Check Register Report and NE Beef Payroll Register for work week: <b>October 26-November 1, 2008.</b>		H, A, F, P			
	807	Packet of all NE Beef Gang Timesheets for Slaughter and Fabrication, all NE Beef Payroll Worksheets for Slaughter and Fabrication, NE Beef Check Register Report and NE Beef Payroll Register for work week: <b>February 1-7, 2009.</b>		H, A, F, P			



PL.	NE BEEF	DESCRIPTION	OFF	OBJ	RCVD	NOT RCVD	DATE
	808	Packet of all NE Beef Gang Timesheets for Slaughter and Fabrication, all NE Beef Payroll Worksheets for Slaughter and Fabrication, NE Beef Check Register Report and NE Beef Payroll Register for work week: <b>May 3-9, 2009</b> .		H, A, F, P			
	809	Packet of all NE Beef Gang Timesheets for Slaughter and Fabrication, all NE Beef Payroll Worksheets for Slaughter and Fabrication, NE Beef Check Register Report and NE Beef Payroll Register for work week: <b>August 2-8, 2009</b> .		H, A, F, P			
	810	Packet of all NE Beef Gang Timesheets for Slaughter and Fabrication, all NE Beef Payroll Worksheets for Slaughter and Fabrication, NE Beef Check Register Report and NE Beef Payroll Register for work week: <b>November 1-7, 2009</b> .		H, A, F, P			
	811	Packet of all NE Beef Gang Timesheets for Slaughter and Fabrication, all NE Beef Payroll Worksheets for Slaughter and Fabrication, NE Beef Check Register Report and NE Beef Payroll Register for work week: <b>February 7-13, 2010</b> .		H, A, F, P			
	812	<b>Demonstrative Exhibit:</b> Computer Animation of Slaughter and Fabrication Processes at NE Beef		Reserve			
	813	<b>Demonstrative Exhibit:</b> Still Photographs Extracted from Fernandez Videotapes – Hide On		R, P, F, A			
	814	<b>Demonstrative Exhibit:</b> Still Photographs Extracted from Fernandez Videotapes – Hide Off		R, P, F, A			
	815	<b>Demonstrative Exhibit:</b> Chart Illustrating Timeline of Work Day for Slaughter Division – Hide On		R, H, P, F, A			

PL.	NE BEEF	DESCRIPTION	OFF	OBJ	RCVD	NOT RCVD	DATE
	816	<b>Demonstrative Exhibit:</b> Chart Illustrating Timeline of Work Day for Slaughter Division – Hide Off		R, H, P, F, A			
	817	<b>Demonstrative Exhibit:</b> Chart Illustrating Timeline of Work Day for Slaughter Division – Variety Meats		R, H, P, F, A			
	818	<b>Demonstrative Exhibit:</b> Chart Illustrating Timeline of Work Day for Pre Fabrication		R, H, P, F, A			
	819	<b>Demonstrative Exhibit:</b> Chart Illustrating Timeline of Work Day for Fabrication		R, H, P, F, A			
	820	<b>Demonstrative Exhibit:</b> Chart Illustrating Timeline of Work Day for Pack Off		R, H, P, F, A			
	821	<b>Demonstrative Exhibit:</b> Charts Demonstrating Median and Mean Values for Measured Activities		Reserve			
		<b>Demonstrative Exhibit:</b> Samples of Personal Protective Equipment		Reserve			
		NE Beef Personnel Files for Class Members not yet identified as witnesses for trial		Reserve			
		Employee Equipment Cards for Class Members not yet identified as witnesses for trial		Reserve			
		Employee Equipment Tickets for Class Members not yet identified as witnesses for trial		Reserve			
		All exhibits necessary for impeachment or rebuttal.					
		It is possible that Defendants may also offer certain exhibits listed by Plaintiffs, subject to relevancy.					

OBJECTIONS:

A: Authenticity  
F: Foundation  
H: Hearsay  
P: Prejudicial  
R: Relevancy  
O: Other (specify)

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